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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,654	01/27/2004	Younger Ahluwalia	03137.000005	3974

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NEW YORK, NY 10112

EXAMINER

RUDDOCK, ULA CORINNA

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 11/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/766,654

Applicant(s)

AHLUWALIA ET AL.

Examiner

Ula C. Ruddock

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 31 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/15/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Examiner has carefully considered Applicant's response filed August 31, 2005. The double patenting rejections over US 6,872,440, US 6,858,550, US 6,586,353, Application No. 10/354216, Application No. 10/354220, Application No. 10/354219, and Application No. 10/766652 have been overcome. The rejections in view of Horner, Jr. et al. (US 6,365,533) and Ahluwalia (US 5,965,257) have been overcome. However, after an updated search, additional prior art has been found which renders the invention as currently claimed unpatentable for reasons herein below.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Terminal Disclaimer

3. The terminal disclaimer filed on August 31, 2005, disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 10/766649 and 10/766678 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 103

4. Claims 1-8, 13, and 15-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horner, Jr. et al. (US 6,365,533) in view of Dimakis (US 5,345,738). Horner, Jr. et al. disclose a pliable facer comprising a preformed glass mat, a binder, and a coating comprising fillers, surfactant, and flame retarding additives (abstract). Because a surfactant is present in Horner's composition, surfactant-generated microcells would also be present in the material. Fillers useful in the coating composition comprise clay (col 3, ln 44-45), which Applicant discloses as a preferred

filler in the present specification. The coating composition further comprises surfactants including fatty acids (col 3, ln 50-57), which are disclosed by Applicant in the specification. The latex component of the coating composition includes latex polymers including copolymers of styrene and butadiene and acrylic based resins (col 3, ln 58-61), which are preferred binders disclosed in the present specification. The coating composition also comprises a coloring agent (i.e. dye) (col 5, ln 28). Horner et al. disclose the claimed invention except for the teaching that the composite material further requires a metallic component.

Dimakis (US 5,345,738) discloses a multi-functional exterior structural foam sheathing panel (abstract). The panel comprises fibrous sheets, vapor-impervious sheets, and an insulating core (col 3, ln 19-21). The core is composed of a polyisocyanurate foam (col 3, ln 35-36). Metallic foil can be adhered between the core and fibrous sheet on both sides of the core (col 5, ln 57-61) via a polymeric adhesive (col 3, ln 30-32). The foil can be aluminum (col 5, ln 65).

It would have been obvious to have used Dimakis' metallic aluminum sheet on the foamed mat of Horner, motivated by the desire to create a composite material that is vapor impervious.

5. Claims 9-12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horner, Jr. et al. (US 6,365,533) and Dimakis (US 5,345,738), as applied to claim 1 above, and further in view of Ahluwalia (US 5,965,257). Horner, Jr. et al. And Dimakis disclose the claimed invention except for the teaching that the composite material further requires water repellant material, antifungal material, antibacterial material, a surface friction agent, and an algacide.

Ahluwalia (US 5,965,257) discloses coated structural articles comprising a glass fiber substrate wherein the coating consists of a latex (col 3, ln 5-9) and a filler (col 2, ln 20). The

structural article may be coated with a water repellent material, an antifungal material, an antibacterial material, a surface friction agent, and an algaecide (col 3, ln 52-67 to col 4, ln 1-14).

It would have been obvious to one having ordinary skill in the art to have used Ahluwalia's water repellent material, antifungal material, antibacterial material, surface friction agent and algaecide on the glass mat of Horner, Jr. et al. and Dimakis, motivated by the desire to create a fibrous product having resistance to water, fungus, algae, bacteria, and to improve the surface friction of the product.

Response to Arguments

6. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C. Ruddock whose telephone number is 571-272-1481. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H. Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

UCR

WCR

Ula Ruddock
Ula C. Ruddock
Primary Examiner
Tech Center 1700